
From: Wu, Jennifer
To: Peterson, Erik
Sent: 9/12/2014 11:44:38 AM
Subject: FW: Forestland Applications in California
Attachments: ForestProgram.pdf; RE: Question on California forestry protections for aerial application of herbicides on Type N streams

Hi Erik - FYI, here's the email I got from Nick Kunz from the waterboard and his contacts in the Department of Pesticide Regulation (DPR). Before our call yesterday, I called Vic but didn't get a call back from him. My understanding (could be wrong) is that the DPR regulates pesticides in general and that there appear to be no statewide buffers, but local ag commissioners in each county can determine buffers for streams. I'm interested in seeing whether California has any buffers at all for any stream. That kind of surprises me if that were the case, but maybe it is.

If you get swamped, let me know, and I can also follow up. Thanks! - Jenny

From: Kunz, Nicholas@Waterboards <Nicholas.Kunz@waterboards.ca.gov>
Sent: Monday, September 08, 2014 1:59 PM
To: Acosta, Vic@CDPR; Wu, Jennifer
Cc: Sarracino, Regina@CDPR; Farnsworth, George@CDPR; Duncan, David@CDPR; Zeiss, Michael@CDPR; Shattuck, Jim@CDPR
Subject: RE: Forestland Applications

Thank you very much Vic,
I clearly have much detail to learn. For those of you at DPR I currently oversee a Forest Program that works with our Regional Water Board's on both federal (primarily National Forest) and non-federal timberlands (we permit both fed and non-fed). Coincidentally I recently received a request from USEPA up in WA State for which I responded (hence the attached email). The forest program has recently seen an uptick in aerial applications on non-federal industrial timberlands (primarily pre-emergents for post fire veg management), so this was also a good opportunity for me to inquire with DPR on the regs relevant to timberlands. If you or someone you know has done some focused work on timberlands please do contact me. Hopefully this supplements my response for Jennifer.

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Nicholas Kunz  
State Water Resources Control Board  
Division of Water Quality  
Forest Activities Program  
1001 I Street, 15<sup>th</sup> floor  
Sacramento, CA 95814  
Ph: (916) 341-5566  
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From: Acosta, Vic@CDPR [mailto:Vic.Acosta@cdpr.ca.gov]
Sent: Monday, September 08, 2014 8:40 AM
To: Kunz, Nicholas@Waterboards
Cc: Sarracino, Regina@CDPR; Farnsworth, George@CDPR; Duncan, David@CDPR; Zeiss, Michael@CDPR; Shattuck, Jim@CDPR
Subject: Forestland Applications

Good morning Nicholas,

Your questions concerning forestland applications were forwarded to me for response. Your questions are answered as follows.

Question 1:

Are there any special rules or regs for aerial applications of pesticides on ‘timberlands’ or do they just have to file the appropriate forms?

Answer:

As background for DPR’s answers to this question, it is helpful to understand that nearly every pesticide application within California must follow restrictions that protect human health and the environment (including pesticides on forest lands). *Throughout this document, note that neither California regulations nor county-specific conditions apply on property that is owned or controlled by the Federal government or by Native American tribes.* Aside from those exceptions, every pesticide application within California:

- a) Must follow the use restrictions on the label of the pesticide product.** Pesticide product labels impose legally-binding restrictions on how and where the product may be applied. Unless they state otherwise, label restrictions apply nationwide. Food and Agricultural Code (FAC) section 12973 requires that the use of any pesticide shall not conflict with labeling registered which is delivered with the pesticide or with any additional limitations applicable to the conditions of any permit issued by the director or commissioner. Nonetheless, label restrictions are especially effective within California because of California’s effective enforcement. As one example, staff of California’s County Agricultural Commissioner’s conduct approximately 18,000 pesticide-use inspections each year statewide.
- b) Must follow safety regulations within Title 3 of the California Code of Regulations (3CCR).** Two regulations protect against risks mentioned in the questions submitted:
- 3CCR section 6600 (“General Standards of Care”) requires each person performing pest control to operate in a careful manner, and exercise reasonable precautions to avoid contamination of the environment; and
 - 3CCR section 6614 (“Protection of Persons, Animals, and Property”) requires that no pesticide application be made when there is reasonable possibility of contamination of non-target property. Non-target property could include domestic water supply, residences, fish-bearing and non-fish bearing streams, and schools.

Additional regulations apply to specific pesticides. In particular, use of herbicides containing 2,4-D is regulated by:

- 3 CCR section 6460 (“Drift Control”), which sets requirements for wind speed and application-equipment parameters for aerial applications of 2,4-D; and
- 3 CCR section 6464 (“Phenoxy and Certain Other Herbicides”), which sets additional requirements within the Central Valley including prohibiting most aerial applications of 2,4-D within the Central Valley.

The complete text of California’s pesticide-use regulations is available at: http://www.cdpr.ca.gov/docs/legbills/calcode/chapter_.htm

- c) For pesticides designated as California Restricted Materials, must follow additional county-specific conditions established by the local County Agricultural Commissioner.** Certain pesticides are designated as California Restricted Materials because of their potential hazard to human health or the environment. Some herbicides registered within California for use on forest lands are California Restricted Materials, including 2,4-D, atrazine, and paraquat dichloride. For a list of all California Restricted Materials, see: <http://www.cdpr.ca.gov/docs/enforce/dpr-enf-013a.pdf>

California Restricted Materials may only be purchased or used by certified applicators, or persons under their direct supervision. To become a certified applicator, it is necessary to pass a written examination and satisfy continuing-education requirements.

In addition, purchase or use of most California Restricted Materials requires a Restricted Materials Permit from the local County Agricultural Commissioner (CAC). The CAC may impose legally-binding restrictions on use within their county as a condition for obtaining a Restricted Materials Permit. Herbicides containing 2,4-D or paraquat dichloride always require a Restricted Materials Permit, and herbicides containing atrazine require a permit when used within any Groundwater Protection Area. For more information about Groundwater Protection Areas, see: http://www.cdpr.ca.gov/docs/emon/grndwtr/gwp_id_gwpa.htm

For more information about county-specific conditions for obtaining a Restricted Materials Permit, contact the relevant County Agricultural Commissioner:

<http://www.cdfa.ca.gov/exec/county/countymap/>.

Question:

Also do you know if there is specific guidance for application near non-fish bearing streams?

Answer:

California does not have statewide buffers, per se, for pesticide applications around streams. A California regulation (3 CCR 6960, "Dormant Insecticide Contamination Prevention") does establish a buffer for applications of certain insecticides during winter months when tree and vine crops are dormant. Specifically, the regulation requires that applications of certain dormant insecticides must either be managed so as to prevent runoff into sensitive aquatic sites for at least 72 hours, or meet other requirements including that applications are prohibited within 100 feet of any sensitive aquatic sites. However, this regulation only restricts applications of insecticides; it does not affect herbicide applications.

Labels of most pesticide products registered within California for application on forest lands prohibit applying directly to surface water. Labels also caution users about the risk of harming aquatic organisms if applying near surface water. In addition, labels of most products containing the herbicide atrazine explicitly prohibit applications within specified distances from surface water. Additional county-specific conditions may apply for herbicides that are California Restricted Materials, including 2,4-D, atrazine, and paraquat. Again, for more information about county-specific conditions, contact the relevant County Agricultural Commissioner: <http://www.cdfa.ca.gov/exec/county/countymap/>.

On August 13, 2014, U.S. EPA reinstated streamside no-spray buffer zones, 60 feet for ground applications and 300 feet for aerial applications in California, Oregon and Washington to protect salmon as a result of final settlement agreement for Northwest Center of Alternatives to Pesticides v. EPA. The streamside no-spray zones are imposed for the pesticides carbaryl, chlorpyrifos, diazinon, malathion and methomyl in waters that support salmon. See link at http://www.epa.gov/oppfead1/cb/csb_page/updates/2014/ncap-epa.html.

If you have any questions, please call or email me.

Victor B. Acosta, Senior Environmental Scientist, (Specialist)
Enforcement Branch
Department of Pesticide Regulation
California Environmental Protection Agency
1001 I Street, P.O. Box 4015
Sacramento, CA. 95812
vic.acosta@cdpr.ca.gov
(916) 445-3908